IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.437 OF 2006
IN
NOTICE OF MOTION NO.1420 OF 2006
IN
SUIT NO.1872 OF 1992

Chandulal N.Thakkar & Ors. .. Appellants
V/s
Lilavati C.Kapadia & Ors. .. Respondents

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Mr.Virag Tulzapurkar, Sr.Advocate with Ms.Alpana Ghone i/by M/s.Kanga & Co. for the Appellants.

Mr.Shakhar Shah i/by M/s.P.Mehta & Mithi & Co. for Respondent Nos.2, 10 and 11.

Mr.Navin Parekh i/by Ms.Hetal Patel for Respondent No.10.

Mr.I.M.Chagla, Sr.Advocate with Mr.A.Y.Bookwala & Mr.Tushar Bhavsar i/by M/s.Utangale & Co. for Respondent No.13.

Mr.Cyrus Ardeshir for Respondent Nos.14A to 14C.

Mr.Vikas Warerkar i/by M/s.Warerkar & Warerkar for Respondent Nos.14 and 15.

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CORAM: DR.S.RADHAKRISHNAN &
S.J.VAZIFDAR, JJ.

DATE : 3rd August, 2006.

P.C.:

1. Heard the learned Counsel for the parties. By this Appeal, the Appellants are challenging the ad-interim order dated 2nd May, 2006 passed by the learned Single Judge in the Notice of Motion No.1420 of 2006. After some arguments, the learned Senior Counsel appearing on behalf of the Appellants states that some of the pleadings in the Plaint will have to be amended. In view thereof, the learned Senior Counsel for the

Appellants seeks leave to withdraw this Appeal with liberty to approach the learned Single Judge for amendment of some of the pleadings in the Plaint by way of a Chamber Summons, with a further prayer seeking for an ad-interim relief in the said Chamber Summons.

2. Appeal is therefore allowed to be withdrawn and dismissed as such, with liberty to the Appellants to approach the learned Single Judge by way of a Chamber Summons for amendment of the Pleadings in the Plaint & with a further liberty to pray for an ad-interim relief in the said Chamber Summons.

3. It is made clear that the learned Single Judge while considering the grant of an ad-interim relief in the Chamber Summons, will not be bound by the order dated 2nd May, 2006 passed in the Notice of Motion No.1420 of 2006 and will decide the said Chamber Summons independently, strictly on its own merits.

4. All contentions of both parties are kept expressly open. It is further made clear that in the event the Appellants were to be aggrieved by the order to be passed by the learned Single Judge in the Chamber Summons, the Appellants will be again entitled to challenge the impugned order dated 2nd May, 2006.

(DR.S.RADHAKRISHNAN, J.)

(S.J.VAZIFDAR,J.)